STATE OF ARIZONA FILED

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OCT 3 1 2019

DEPARTMENT OF INSURANCE

DEPT OF INSURANCE BY 45 10/31/2019

In the Matter of:

No. 19A-155-INS

STEWART, DAVID KAY (National Producer Number 1034838)

CONSENT ORDER

Respondent.

The State of Arizona Department of Insurance ("Department") has received evidence that **David Kay Stewart** ("Stewart" or "Respondent") violated provisions of Title 20, Arizona Revised Statutes ("A.R.S."). Respondent wishes to resolve this matter without the commencement of formal proceedings and admits the following Findings of Fact are true and consents to entry of the following Conclusions of Law and Order.

FINDINGS OF FACT

1. Stewart was, at all material times, licensed as an Arizona resident insurance producer. On April 20, 1971, the Department issued Stewart a license, number 10348381, with two (2) lines of authority: accident and health or sickness, and life insurance. Stewart's license last renewed effective May 1, 2017 and is currently scheduled to expire on April 30, 2021.

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¹ Effective 04/21/2017, the license number issued to each Arizona-licensed insurance professional changed to match the producer's National Producer Number ("NPN"). Stewart's former Arizona license number, now known as the Legacy License ID Number, is 3054.

2. Stewart's addresses of record are: 3521 East Brown Road, Suite 101, Mesa, Arizona 85213 (business), 1705 North 30th Street, Mesa, Arizona 85213 (mailing), and dkstewart@insuranceproaz.com (business email).

Complaint

- 3. On or about August 29, 2019, the Department received a complaint against Stewart from Michael E. Hensley ("Hensley") of the firm Jones, Skelton & Hochuli, P.L.C. Hensley filed the complaint on behalf of his client Lake Havasu Schools Employee Benefit Trust ("the Trust"). The Trust is a self-insured entity which is not regulated by the Department.
- 4. On or about 2006 through December 31, 2018, Stewart acted as both a consultant to, and an agent on behalf of, the Trust.
- Hensley alleged that Stewart destroyed Trust records, including insurance-related transactions.
- 6. On or about September 25, 2019, the Department requested Stewart to produce any and all insurance records transacted on behalf of the Trust for the three (3) years prior to his separation from the Trust on December 31, 2018.
- 7. In response to the Department's request, Stewart confirmed that between 2016 and 2018, he sold approximately three (3) stop-loss policies to the Trust. However, Stewart admitted he destroyed the insurance records at the direction of the Trust's Chairperson.

CONCLUSIONS OF LAW

- 1. The Director has jurisdiction over this matter.
- 2. Respondent's conduct, as described above, constitutes a violation of Title 20, within the meaning of A.R.S. § 20-295(A)(2).

- 3. Respondent's conduct, as described above, constitutes failing to keep all records for any transaction for three years immediately after the date of the completion of the transaction, within the meaning of A.R.S. § 20-290(A).
- 4. Grounds exist for the Director to impose a civil penalty of not more than two hundred fifty dollars for each unintentional failure or violation, up to an aggregate civil penalty of two thousand five hundred dollars, or impose a civil penalty of not more than two thousand five hundred dollars for each intentional failure or violation, up to an aggregate civil penalty of fifteen thousand dollars, within the meaning of A.R.S. § 20-295(F).

ORDER

IT IS HEREBY ORDERED THAT:

Respondent shall immediately pay a civil penalty in the amount of Seven Hundred
 Fifty Dollars (\$750.00) for deposit into the State General Fund.

DATED AND EFFECTIVE this 318 day of ________, 2019 KEITH A. SCHRAAD Director of Insurance

CONSENT TO ORDER

- Respondent has reviewed the foregoing Findings of Fact, Conclusions of Law and
 Order.
- 2. Respondent admits the jurisdiction of the Director of Insurance, State of Arizona, and admits the foregoing Findings of Fact and consents to the entry of the foregoing Conclusions of Law and Order.

- 3. Respondent is aware of his right to notice and to a hearing, at which he may be represented by counsel, present evidence and examine witnesses. Respondent irrevocably waives his right to such notice and hearing and to any court appeals relating to this Consent Order.
- 4. Respondent states that no promise of any kind or nature whatsoever, except as expressly contained in this Consent Order, was made to him to induce him to enter into this Consent Order and that he has entered into this Consent Order voluntarily.
- 5. Respondent acknowledges that the acceptance of this Consent Order by the Director is solely to settle this matter against him and does not preclude any other agency, officer, or subdivision of this state including the Department from instituting civil or criminal proceedings as may be appropriate now or in the future.
- 6. Respondent acknowledges that this Consent Order is an administrative action that the Department will report to the National Association of Insurance Commissioners (NAIC) and that he may have to report this administrative action on any future licensing applications either to the Department or other states' Departments of Insurance.

10/25/2019 Date

David Kay Stewart (NPN License No. 1034838)

David Kay Stewart 1705 N. 30th St.

Mesa, AZ 85213

Respondent

1	David Kay Stewart c/o Insurance Professionals of Arizona
2	3521 E Brown Rd., Suite 101 Mesa, AZ 85213
3	Respondent
4	COPY of the foregoing delivered, same date, to:
5	Mary Kosinski, Regulatory Legal Affairs Officer Catherine M. O'Neil, Consumer Legal Affairs Officer
6	Steven Fromholtz, Assistant Director, Consumer Protection Division Ana Starcevic, Paralegal Project Specialist
7	Sharyn Kerr, Administrative Assistant, Consumer Protection Division Dawn Lucero, Consumer Specialist
8	Arizona Department of Insurance 100 North 15 th Avenue, Ste.102
9	Phoenix, Arizona 85007-2624
10	COPY sent same date via electronic mail to:
11	David Kay Stewart dkstewart@insuranceproaz.com
12	Respondent
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14	Francine Martinez
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